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**WITNESSES — PRIVILEGED COMMUNICATIONS — PATIENT'S COMMUNICATIONS TO DENTIST.** — A statute forbade "a person duly authorized to practise physic or surgery" to disclose any information acquired while attending a patient in a professional capacity, necessary to enable him to act in that capacity. The plaintiff, a dentist, was allowed to testify concerning dental work done for the defendant's testator. *Held*, that there is no error. *Howe v. Regensburg*, 132 N. Y. Supp. 837 (Sup. Ct.).

A confidential relationship exists between a physician and patient which statutes like that in the principal case are intended to preserve, so that the patient, to get relief, may tell everything about his condition without fear that such communications will ever be used against him. See *Edington v. Mutual Life Ins. Co.*, 67 N. Y. 185, 194. Technically, dentistry is a branch of physic or surgery. *In the Matter of Hunter*, 60 N. C. 447. See *State v. Beck*, 21 R. I. 288, 293, 43 Atl. 366, 367. But it is difficult to imagine that a dentist's patient would be compelled to make damaging admissions in order to receive proper treatment. Thus, since the reason for the statute does not apply and since in common parlance dentistry is regarded as a separate profession, the decision of the principal case seems proper. See SUTHERLAND, STATUTORY CONSTRUCTION, 2 ed., §§ 367, 395.

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## BOOK REVIEWS.

**WATER RIGHTS IN THE WESTERN STATES.** By Samuel C. Wiel. Third Edition. In two volumes. San Francisco: Bancroft-Whitney Company. 1911. pp. xlvii, 967; 969-2067.

On account of the important changes which have been going on in the law of water rights in the western states in the past few years, this work, largely rewritten in view of such changes, which for the first time gives an adequate account of them, and discusses the principles involved, must supersede all our books upon the subject. Happily the work has been done so well that Mr. Wiel's treatise is likely to remain for a long time, as it were, an authoritative text. It has the merit, not common in current texts, of indicating the lines upon which progress is proceeding and should proceed, instead of merely digesting the recent cases and appending them to the views of prior writers. The author has thought critically and independently upon the important problems of the subject, especially upon the new problems arising under recent decisions, and thus has produced a book which deserves to be, and undoubtedly will be, of no little influence upon the case law of the subject.

One may commend especially the discussion of the tendency to depart from a possessory system of acquiring water rights and work out a use system. Undoubtedly the courts are hesitating between the two since many of them are bound by past decisions, if not wholly to the possessory system, at least to more than one consequence thereof. Mr. Wiel points out very clearly the relation of these two systems to the history of the subject, and his demonstration that the one view is historical and the other analytical should have much to do with enabling the courts to depart intelligently from rules which have a purely historical basis. It is to be hoped also that those who draft legislation with respect to water rights in the future will read Mr. Wiel's discussions carefully so that legislation will not waver between the two theories.

Another commendable discussion has to do with the recent tendency to recognize something very like riparian rights through perceiving that the owner